



Factsheet 23: I have been discriminated against because of my criminal history, what can I do?

If you are discriminated against because of your criminal history in the ACT, you can complain to the ACT Human Rights Commission or the Australian Human Rights Commission. We have outlined the complaint process for both commissions.

How do I complain to the ACT Human Rights Commission?

In the ACT, it is against the law for someone to discriminate against you because of particular 'protected attributes' or characteristics, which includes your 'irrelevant criminal record.' If you have been discriminated against because of an 'irrelevant criminal record', you can make a complaint to the ACT Human Rights Commission under the Discrimination Act 1991 (ACT).

What is an 'irrelevant criminal record'?

An irrelevant criminal record includes:

- where a person has a conviction, but the circumstances of the offence are not directly relevant to the situation in which the discrimination arises; and
- where the person has a spent conviction or an extinguished conviction.

The complaints process

As a first step, you may want to discuss the matter with the ACT Human Rights Commission's 'Enquiries Officer' by calling 02 6205 2222. They will:

- listen to you
- give you general information about discrimination law and the jurisdiction and functions of the Commission
- provide details about how to lodge a complaint; and
- put you in touch with other people who can help, if you need it.

The complaint form can be found online at www.hrc.act.gov.au/complaints/

You will need to include your personal and contact details, the details of the person or organisation the complaint is against, the type of discrimination that has occurred (i.e. 'Treated unfavourably because of my irrelevant criminal record') and details of the discrimination complaint.

If you're unsure about how to make the discrimination complaint, please read the Guidelines for Making a Discrimination Complaint, available at www.hrc.act.gov.au

Complaints are usually resolved through conciliation. This is less formal than going to court and involves a meeting between you and the person or organisation you have complained about. The meeting attempts to resolve the complaint with the assistance of a conciliator (or mediator).

The possible complaint outcomes include: an apology; being provided access to training or chances for promotion or a service that was previously denied or given in a way that was inappropriate; financial compensation for lost income or for hurt and humiliation; and changes to policy or developing and promoting anti-discrimination policies.

Please note that the Commission may take no action if your complaint is more than **2 years** old, is before a court or tribunal (or has been heard by a court or tribunal) or the complaint is dishonest.

How do I complain to the Australian Human Rights Commission?

The Australian Human Rights Commission Act 1986 (Cth) provides that a person's 'criminal record' is a ground of discrimination. This applies to all employees, whether they are part-time, full-time, permanent or casual.

The complaints process

The complaints process through the Australian Human Rights Commission is similar to that of the ACT Human Rights Commission. You can call the Australian Human Rights Commission on 1300 656 419 to discuss your matter.



STREET LAW

You will need to complete their complaint form which can be found online at www.humanrights.gov.au/complaints

You will need to include your personal and contact details, the details of the person or organisation the complaint is against, the type of discrimination that has occurred (i.e. 'Treated unfavourably because of my irrelevant criminal record') and details of the discrimination complaint. They will then contact you, as well as the person or organisation you have made the complaint about (who will also receive a copy of your complaint).

Complaints are also usually resolved by conciliation, with possible complaint outcomes including an apology, reinstatement to a job, compensation for lost wages, changes to policy or developing and promoting anti-discrimination policies.

You should generally make a complaint **within 6 months** of the discrimination, but the Australian Human Rights Commission can accept older complaints in certain circumstances. You should seek legal advice if your complaint is older than 6 months.

How do I know which Human Rights Commission to complain to?

Sometimes it's difficult to know which Human Rights Commission to lodge your complaint – should it be the ACT Human Rights Commission or the Australian Human Rights Commission? You should get legal advice about this before lodging your complaint. You can call:

- Legal Aid on 1300 654 314 from 8.30am to 5pm, Monday to Friday; or
- Women's Legal Centre on 02 6257 4499 from 9.30am to 12 noon, Monday to Friday.